

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

CEDRIC NICKERSON, #681323
A.K.A. CEDRIC PIERRE WEBB

VS.

REYNALDO CASTRO, ET AL.

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CIVIL ACTION NO. 6:05cv139

ORDER OF DISMISSAL

Plaintiff Cedric Nickerson a.k.a. Cedric Pierre Webb, an inmate previously confined at the Michael Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the lawsuit should be dismissed pursuant to the “three strikes” provision of 28 U.S.C. § 1915(g). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections of the Plaintiff are without merit. The Plaintiff discussed in his objections the cases that were shown as strikes. The Court has reviewed the cases and appeals *de novo* and is of the opinion that each one counts as a strike. The Plaintiff’s factual allegations in this case do not give rise to an inference that he is “under imminent danger of serious physical injury” in order to trigger the exception to 28

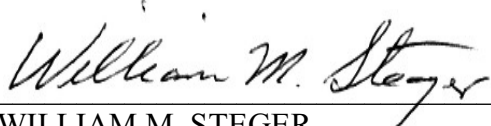
U.S.C. § 1915(g). Thus the recommendation to dismiss the case for purposes of *in forma pauperis* proceedings is appropriate. The Plaintiff's objections lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that the Plaintiff may resume the lawsuit if he pays the entire filing fee of \$250 within thirty days from the entry of this order. *See Carson v. Johnson*, 112 F.3d 818, 823 (5th Cir. 1997). It is finally

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 12th day of July, 2005.

A handwritten signature in black ink, reading "William M. Steger", is written over a horizontal line.

WILLIAM M. STEGER
UNITED STATES DISTRICT JUDGE